

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19071)
of Ardis Phillips to Appropriate)
from East Fork Russian River in)
Mendocino County)

Decision D 1063

ADOPTED FEB 15 '62

DECISION APPROVING APPLICATION

Ardis Phillips having succeeded to Application 19071 for a permit to appropriate unappropriated water; protests having been received; the applicant and protestant having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19071 is for a permit to appropriate 0.32 cubic foot per second (cfs) by direct diversion from April 15 to October 1 of each year for irrigation purposes from East Fork Russian River in Mendocino County. The point of diversion is to be located within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 17, T17N, R11W, MDB&M.

2. The applicant's point of diversion is located approximately 10 miles above the point where the East Fork Russian River flows into Lake Mendocino and approximately 3 miles below the PG&E Potter Valley Powerhouse which discharges Eel River water

into the East Fork Russian River. Applicant is diverting the water applied for to irrigate 26 acres of alfalfa and pasture lands and claims to have been irrigating the same land for over fifty years from the same source.

3. The California Department of Fish and Game protested the applications on the grounds that the granting of the application would adversely affect the rainbow trout population in the stream and that to satisfactorily maintain this resource in the 10-mile reach between the applicant's point of diversion and Lake Mendocino the applicant should be required to bypass 50 cubic feet per second (cfs), or the natural flow of the stream, whichever is less.

4. The average daily flow of East Fork Russian River at the applicant's point of diversion during the months of April through September for the years 1950 through 1959 exceeded 100 cubic feet per second in 55 out of the 60 months of study and was between 16 and 89 cubic feet per second (cfs) for the remaining five months.

5. The protestant has failed to show that the granting of this application for 0.32 cubic foot per second (cfs) would have a substantial detrimental effect on a stream of this size as a fishery or that its recommended flow of 50 cubic feet per second (cfs) is necessary to protect the fish existing in this particular reach of the East Fork Russian River.

6. There is unappropriated water available to supply the applicant, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

8. The applicant claims a pre-1914 right to appropriate the water applied for, the application having been made to obtain a right of record in order to facilitate the sale of the property designated as the place of use. The permit to be issued should contain a special term to the effect that the right to divert water under it will be included in, and will not be in addition to, any pre-1914 right which the applicant may have to appropriate water from the source.

From the foregoing findings, the Board concludes that Application 19071 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 19071, Application 13557 (License 5246), and all relevant information on file therewith, particularly the report of the field investigation made June 9, 1960; United States Geological Survey (USGS) 15-minute quadrangles, "Pomo, 1943," "Lake Pillsbury, 1951," and "Ukiah, 1958"; USGS Surface Water Supply Papers, Part 11, "Pacific Slope Basins in California," Masonite Exhibit No. 6 submitted in connection with the hearing commencing on June 9, 1959, on Application 12919A and others; and pages 103 and 744 of reporter's transcript of said hearing.

IT IS HEREBY ORDERED that Application 19071 be, and the same is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.32 cubic foot per second by direct diversion to be diverted between about April 15 and about October 1 of each year.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

5. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

6. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

7. Rights acquired under this permit shall be included in, and are not in addition to, any pre-1914 right the permittee may have to appropriate water from the same source.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member